

Message Text

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ACTION AF-18

INFO OCT-01 EUR-25 ISO-00 OMB-01 NEA-10 CU-04 CIAE-00

DODE-00 PM-07 H-03 INR-10 L-03 NSAE-00 NSC-10 PA-04

RSC-01 PRS-01 SPC-03 SS-20 USIA-15 ACDA-19 IO-14

AID-20 SCA-01 SY-10 DRC-01 (ISO) W

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FM AMEMBASSY KHARTOUM

TO SECSTATE WASHDC 7491

INFO AMEMBASSY BRUSSELS

C O N F I D E N T I A L KHARTOUM 2722

E.O. 11652: GDS

TAGS: PINS, SU

SUBJ: KHARTOUM ASSASSINATIONS - MINISTERIAL INQUIRY

REF: KHARTOUM 2708

1. SUMMARY. MAGISTERIAL INQUIRY ADJOURNED INDEFINITELY
DEC 13 PENDING DEFENSE APPEAL OF MAGISTRATE'S DEC 11
DECISION ON QUESTIONS OF JURISDICTION AND TYPE OF PROCEEDINGS.
APPEAL AUTHORIZED UNDER SUDAN PENAL CODE WHICH ALSO, WE
UNDERSTAND, WOULD PERMIT FURTHER APPEALS HIGHER COURTS. INCREAS-
INGLY CLEAR DEFENDANTS WILL SEEK AVAIL THEMSELVES OF ALL SUCH
LEGAL DEVICES IN EFFORT POSTPONE FINAL SENTENCING. END SUMMARY.

2. PROCEEDINGS. INQUIRY SESSION DEC 13 BEGAN LATE
AND LASTED ONLY 15 MINUTES. TERRORIST LEADER, RQDZIK QAS,
ADDRESSED COURT SAYING MAGISTRATE HAD CREATED DANGEROUS
PRECEDENT IN TREATING ACCUSED AS ORDINARY KILLERS. RIDZIK
STATED HE DID NOT WISH REVEAL ALL OF NEGOTIATIONS WHICH
LED TO THEIR SURRENDER, BUT SAID DEFENDANTS WOULD EXER-
CISE THEIR RIGHT TO APPEAL MAGISTRATE'S DECISION ON
QUESTION OF JURISDICTION TO PROVINCE JUDGE. HE CLOSED
BY SAYING "LONG LIVE PALESTINE" DEATH AND DESTRUCTION
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TO ISRAEL AND USA". HE THEN HANDED STATEMENT TO JUDGE.

3. ONE OF DEFENSE ATTORNEYS, SHOUGHI MALASI (SUDANESE OF BAATHIST SYMPATHIES WHO HAS BEEN LEADING PROPONENT OF DELAYING AND OTHER OBSTRUCTIONIST TACTICS ON PART OF DEFENDANTS) THEN ASKED MAGISTRATE FOR INDEFINITE POST-PONEMENT SO DEFENSE COULD PREPARED APPEAL TO PROVINCE JUDGE. (WE UNDERSTAND DEFENSE WILL INCLUDE NOT ONLY JURISDICTION ISSUE CITED BY RIDZIK BUT ALSO MAGISTRATE'S RULING ON SUMMARY VS NON-SUMMARY PROCEEDINGS.) MAGISTRATE GRANTED THIS REQUEST AND ADJOURNED INQUIRY UNTIL SUCH TIME AS DECISION ON APPEAL RECEIVED.

4. ATMOSPHERE. MAGISTRATE'S DECISION APPLAUDED BY SOME 40 PALESTINIAN STUDENTS PRESENT. COURT DISCIPLINE IN EFFECT BROKE DOWN.

5. LEGAL COMMENT. EMBASSY ATTORNEY ADVISED DEC 12 AN APPEAL POSSIBLE UNDER PENAL CODE, BUT UNCLEAR WHETHER SUCCESSIVE APPEAL TO STILL HIGHER COURTS ALSO POSSIBLE. ATTORNEY OPINED, HOWEVER, SUCH ACTION ON QUESTION JURISDICTION WOULD BE POOR LEGAL TACTICS FOR DEFENSE, SINCE IT WOULD MINIMIZE EFFECTIVENESS THESE ARGUMENTS DURING TRIAL ITSELF. HE FELT, MOREOVER, THAT APPEALS WOULD FAIL. HE DID NOTE THAT, DESPITE PROTESTATIONS OF DEFENDANTS RE LONG DURATION OF PROCEEDINGS, THEY HAD SO FAR GONE TO GREAT LENGTHS TO DELAY WITH MALASI PLAYING LEADING ROLE IN URGING THIS COURSE. DECISION GO APPEAL ROUTE THUS HARDLY SURPRISING.

6. COMMENT: PRIOR FURTHER CONSULTATION WITH EMBASSY ADVISER WE UNABLE ESTIMATE HOW LONG CURRENT APPEAL PROCESS LIKELY TAKE AND EXACTLY HOW IT WILL PROCEED. THOUGH ACTUAL TRIAL MAY STILL BE SOME DISTANCE DOWN ROAD, FACT REMAINS ACCUSED STAY IN JAIL AND APPARENTLY FEEL INCREASINGLY WORRIED RE FINAL OUTCOME.
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